FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6237 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Shri V.R.Tripathi i/by V.R. Tripathi & Associates for the petitioner.

Shri Jitendra G.Shukla i/by M/s. G.H.Shukla & Co. for Respondent No.1.

Coram : R.S.Mohite,J

Date : 25.11.2005.

PC

1. The petitioner files this petition seeking to quash and set aside the order dated 11.6.2005 passed by the City Civil Court rejecting Chamber summons No.734/2004 in L.C.Suit No.1039/99 for amending the written statement. Admittedly, the chamber summons was filed after the trial has commenced and the affidavit in view of

examination of chief of the plaintiff has been filed. The affidavit in support of the Chamber summons does not give any reason as to why the amendment was not sought before commencement of the trial. In the circumstances, in view of the proviso of Order 6 Rule 17 it was open for the trial Court to reject the amendment. Even otherwise, I have perused the nature of the amendment sought. The suit is for allotment of transit accomodation as the plaintiff’s structure was demolished by the Bombay Municipal Corporation. Admittedly, the premises which were demolished had not been declared as slum area prior to demolition. It is sought to be contended that the transit area is declared as slum. In my view prima facie, there is no question of jurisdiction involved. Hence, petition is dismissed summarily.

(R.S.Mohite,J)